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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/606,984	06/26/2003	Eric M. Gregori	74229	6437
22242	7590	05/04/2005	EXAMINER	
FITCH EVEN TABIN AND FLANNERY 120 SOUTH LA SALLE STREET SUITE 1600 CHICAGO, IL 60603-3406			PHAM, TOAN NGOC	
			ART UNIT	PAPER NUMBER
			2632	

DATE MAILED: 05/04/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/606,984

Applicant(s)

GREGORI ET AL.

Examiner

Toan N. Pham

Art Unit

2632

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-27 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-23 and 25 is/are rejected.
- 7) ☒ Claim(s) 24, 26 and 27 is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. ____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- ☒ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date 1/18/03; 3/24/05.
- ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____.
- ☐ Notice of Informal Patent Application (PTO-152)
- ☐ Other: ____.

DETAILED ACTION

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371(c) of this title before the invention thereof by the applicant for patent.

The changes made to 35 U.S.C. 102(e) by the American Inventors Protection Act of 1999 (AIPA) and the Intellectual Property and High Technology Technical Amendments Act of 2002 do not apply when the reference is a U.S. patent resulting directly or indirectly from an international application filed before November 29, 2000. Therefore, the prior art date of the reference is determined under 35 U.S.C. 102(e) prior to the amendment by the AIPA (pre-AIPA 35 U.S.C. 102(e)).

Claims 1, 4, 8, 13, 15-18 and 23 are rejected under 35 U.S.C. 102(e) as being anticipated by Ginzel et al. (US 6,553,238).

Regarding claims 1, 8, and 16: Ginzel et al. discloses a movable barrier operator including for controlling movement of a movable controller barrier; and a network interface (1) electronically connected to the controller for connecting the controller to network; wherein the network interface responds to requests received on the network by sending a status of the movable barrier over the network (col. 6, lines 1-58).

Regarding claim 4: Ginzel et al. discloses a modem (1) (col. 5, lines 9-20).

Regarding claim 13: Ginzel et al. discloses the network client is a computer (Fig. 2).

Regarding claim 15: Ginzel et al. discloses the network client is a cellular telephone (3) (col. 5, lines 9-12).

Regarding claim 17: Ginzel et al. discloses the status monitor is wirelessly connected to the network interface via the cellular telephone (col. 6, lines 42-58).

Regarding claim 18: Ginzel et al. discloses a modem (1) (col. 5, lines 9-20).

Regarding claim 23: Ginzel et al. discloses the displaying of the status (col. 5, lines 46-52).

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 2, 3, 5-7, 9, 10, 14, 19-22, and 25 are rejected under 35 U.S.C. 103(a) as being unpatentable over Ginzel et al. (US 6,553,238).

Regarding claims 2 and 3: Ginzel et al. does not disclose the push button control unit for the movable barrier operator; however, a push button switch for a movable barrier control is well-known and obviously being utilized in a movable barrier control.

Regarding claims 5-7, 19, and 20: Ginzel et al. discloses the modem (1) (col. 5, lines 9-12); thus, other kind of modems, such as cable, DSL, wireless, etc., are well known in the art of home digital network.

Regarding claims 9, 22 and 25: Ginzel et al. does not disclose receiving access authorization information from the network client; however, authorization access to a network terminal is well known and used in the art of computer security systems.

Regarding claim 10: Ginzel et al. discloses the access barrier status is being recorded in a remote diagnosis and monitoring system and information is accessed via the PC through the modem (col. 5, lines 26-41; col. 6, lines 28-58); thus, information being access through a modem maybe Internet related communications.

Regarding claim 14: Ginzel et al. does not disclose the network client is a personal digital assistant (PDA); however, Ginzel et al. discloses the portable device of a cellular phone (3). It is obvious that the cellular phone has PDA capabilities of providing text messaging and graphic display.

Regarding claim 21: Ginzel et al. discloses a modem (1) (col. 5, lines 9-20). Thus, modems are network interface for connection to the Internet.

Claims 11 and 12 are rejected under 35 U.S.C. 103(a) as being unpatentable over Ginzel et al. (US 6,553,238) in view of Cohen (US 6,388,559).

Ginzel et al. does not disclose the open and closed status of the movable barrier. Cohen discloses the remote monitoring of the status of the movable barrier including the open and closed status (abstract). At the time of the invention, it would have been

obvious to one of ordinary skill in the art to provide an open and closed status indication as taught by Cohen in a system as disclosed by Ginzel et al. for conveniently indicate the garage door status as well as providing a piece of mind to the homeowner that the garage is secure.

Allowable Subject Matter

Claims 24, 26 and 27 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Conclusion

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. The prior art of Leivenzon et al. (US 4,533,905), Schmitz (US 4,583,081), Tsui (US 6,597,291), Teich (US 5,596,840), Doppelt et al. (US 5,969,637), and Dean (US 6,166,634) are cited to show a variety of remote garage status monitoring systems.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Toan N. Pham whose telephone number is (571) 272-2967. The examiner can normally be reached on M-F.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Daniel J. Wu can be reached on (571) 272-2964. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

April 29, 2005

TOAN N. PHAM
PRIMARY EXAMINER

A handwritten signature in black ink, appearing to read 'Toan Pham', written in a cursive style.